

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 19, 2006

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, Acting P.J., Vogel (Miriam A.), J., Rothschild, J., Jackson, J. (Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B181092	People v. Herrera
B183805	People v. L.J.
B184130	People v. Polk, Maxwell
B184709	People v. Redd
B184927	People v. Sibley
B185918	People v. Carrillo
B186102	People v. Martinez
B186612	People v. Gutierrez
B187127	People v. Rios
B187626	People v. Mundo
B187787	People v. Adonis H.
B188262	People v. Vernon S.
B188296	People v. Wilson
B188654	People v. Daniel F.
B188732	People v. Frize
B184922	Hines v. City of Long Beach
B188259	DCFS v. Deborah G.
B189314	DCFS v. Raul J.
B192104	R.H. v. SCLA; DCFS

Argument waived, cause submitted.

DIVISION ONE (Continued)

B188564 Carey
 v.
 Carey

Merits:
Argued by Roger J. Diamond for appellant and by Allan E. Ceran for respondent. Cause submitted.

B186552 People
 v.
 Shigaura

Merits:
Argued by Leonard J. Klaif for appellant and Michael C. Keller, Deputy Attorney General, waived oral argument. Cause submitted.

B187064 People
 v.
 Jackson

Merits:
Argued by Steven Levine for appellant and by Juliet Swoboda, Deputy Attorney General, for respondent. Cause submitted.

Vogel, J. leaves the bench.

B181548 People
 v.
 Villegas & Torres

Merits:
Argued by Charles T. Matthews for appellant Villegas and by Russell A. Lehman, Deputy Attorney General, for respondent. Attorney Jeffrey Kross for appellant Torres waived oral argument. Cause submitted.

Vogel, J. returns to the bench.

DIVISION ONE (Continued)

B187212 People
 v.
 Nunnery

Merits:
Argued by Kevin D. Sheehy for appellant and Michael C. Keller, Deputy Attorney General, for respondent waived oral argument. Cause submitted.

Vogel, J. leaves the bench.

B184561 Tenet Healthsystem Hospitals, Inc. etc.
 v.
 Abravesh

Merits:
Argued by William Becker for appellant and by Greg Ozhekim for respondent. Cause submitted.

Vogel, J. returns to the bench.

Jackson, J. (Assigned), leaves the bench.

B188032 Morrissey
 v.
 Chequered Flag International

Merits:
Argued by Jeffrey Brynan for appellant and by Denise V. Foley for respondent. Cause submitted.

B186720 Taylor et al.
 v.
 Harrigan et al.

Merits:
Argued by Michael L. Justice for appellants and by Kathryn Albarian for respondents. Cause submitted.

DIVISION ONE (Continued)

Jackson, J. (Assigned) returns to the bench.

Rothschild, J. leaves the bench.

B178747 Merritt
 v.
 Cingular Wireless, LLC

Merits:
Argued by Donald M. Falk for appellant and by Karen Hindin for
respondent. Cause submitted.

Mallano, J., leaves the bench.

Rothschild, J., returns to the bench.

B186950 Abdullah
 v.
 County of Los Angeles et al.

Merits:
Argued by Anna L. Birenbaum for appellants and by John P. Blumberg for
respondent. Cause submitted.

Mallano, J. returns to the bench.

Rothschild, J. leaves the bench.

B190647 Long Beach Community College District etc., et al.
 v.
 Superior Court, Los Angeles County
 (McCullough et al., r.p.i.)

Merits:
Argued by Gregory A. Wille for petitioners and by Catherine W. Short for
real parties in interest. Cause submitted.

September 19, 2006 (Continued)

DIVISION ONE (Continued)

Rothschild, J. returns to the bench.

Jackson, J. (Assigned) leaves the bench.

B185304 Collins et al.

V.

California Department of Parks and Recreation

Merits:

Argued by Alan Harris for appellants and by Gary Tavetian, Deputy Attorney General, for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B187485 People

(Not for Publication)

V.

Henry Duffy

The abstract of judgment must be modified to reflect that the trial court imposed a \$200 fine under section 1202.4, subdivision (b), and a \$200 fine under section 1202.45. The clerk of the superior court is directed to correct the abstract of judgment and to forward a corrected abstract of judgment to the Department of Corrections. The judgment is otherwise affirmed as modified.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

B184654 Rudolphus LeFlore (Not for Publication)

v.

Los Angeles County Metropolitan Transportation Agency et al

The order from which LeFlore has appeal is affirmed. Costs on appeal to cross-complainants.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B185111 Katie and Lorie Ittner et al (Not for Publication)

v.

Mercury Insurance Company

The judgment is affirmed. Mercury shall recover its costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B191462 Sarkis Gumrikyan et al (Not for Publication)

v.

Khachik Kesheshyan et al

The motion to dismiss the appeal is granted. The petition for writ of supersedes is dismissed as moot. The request for sanctions is denied. Costs on appeal and motion to dismiss are awarded to defendants.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B190886 Los Angeles County, D.C.S. (Not for Publication)
 v.
 D.D.,

The appeal is dismissed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION FOUR

B188636 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Eduardo G., Sr.

The order of the juvenile court denying the section 388 petition is affirmed and the matter is remanded to the juvenile court to order the Department to comply with the notice provisions of the ICWA. If it is determined that the children are of American Indian ancestry and the ICWA applies, appellant is then entitled to petition the juvenile court to invalidate all orders which violate title 25 of the United States Code sections 1911, 1912, and 1913.

Suzukawa, J.

We concur: Willhite, Acting P.J.
 Manella, J.

B190746 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Kerry K.

The order terminating parental rights is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.
 Suzukawa, J.

September 19, 2006 (Continued)

DIVISION FOUR (Continued)

B186462 People (Not for Publication)
v.
Keyshawn B.

The order of wardship is reversed.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

[illegible]

The judgments are affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

[illegible]

The judgment (order of commitment) is affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

September 19, 2006 (Continued)

DIVISION FOUR (Continued)

B182619 Jackson (Not for Publication)
v.
Anderson et al.

The judgment is affirmed. Respondent(s) to recover costs.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

DIVISION FIVE

B189754 Los Angeles County, D.C.S. (Not for Publication)
v.
Arlene G., Juan G., Ruby G.

The judgment is affirmed as to Arlene G. and Juan G. Ruby G's appeal is dismissed as untimely.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

B184481 Raymond Maciel (Not for Publication)
v.
Simac construction, Inc. et al

The judgment in favor of SIMAC is affirmed, and costs of appeal as to that judgment are awarded to SIMAC. The judgment in favor of Structural Steel is reversed, and costs on appeal as to that judgment are awarded to plaintiff.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B185510 Kathy Spencer (Not for Publication)
 v.
 County of Los Angeles

The judgment is affirmed. Respondent(s) to recover costs.

Mosk, J.

We concur: Turner, P.J.
 Kriegler, J.

DIVISION SIX

B185546 People (Not for Publication)
 v.
 Boardman

The appeal is dismissed.

Yegan, Acting P.J.

We concur: Coffee, J.
 Perren, J.

B182741 People (Not for Publication)
 v.
 Waterloo

We modify the judgment to reflect that only two 5-year enhancements were imposed pursuant to section 667, subdivision (a)(1), and to reflect that appellant's total aggregate sentence is 36 years to life. The superior court is directed to correct the abstract of judgment and forward the corrected abstract to the Department of Corrections. The judgment, as modified, is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

September 19, 2006 (Continued)

DIVISION SIX (Continued)

B188621 In re Destiny M. (Not for Publication)
 Santa Barbara County Child Welfare Services
 v.
 Gabriela V.

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

B182182 People
v.
Holbert

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION SEVEN

B185158 People (Not for Publication)
v.
Daniels

The clerk of superior court is directed to prepare a modified abstract of judgment reflecting the 10-year firearm enhancement on count 3 was imposed under section 12022.53, subdivision (b), not section 12022, subdivision (a)(1), the one-year firearm enhancement on count 3 under section 12022, subdivision (a)(1) was stayed, and also the firearm enhancement imposed under section 12022, subdivision (a)(1) on count 2 is a one-year enhancement, not a 10-year enhancement. As so modified, the judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B184532 People (Not for Publication)
v.
Jamaal M.

Condition 21 is modified to read: "Do not use or possess narcotics, controlled substances, poisons or related paraphernalia; stay away from places where users known to you congregate." As modified, the order is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

B183290 People v. Pruitt (Not for Publication)

The order requiring appellant to pay attorney fees in the amount of \$6,856.45 pursuant to section 978.8 is vacated and the cause is remanded to the trial court for further consideration consistent with the requirements of section 978.8. The judgment is affirmed in all other respects.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B183418 Transamerica Leasing, Inc., (Not for Publication)
v.
Burlington Northern and Santa Fe Railway Co., et al.,

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION SEVEN (Continued)

B188373 People (Not for Publication)
v.
Casique

The judgment is affirmed, without prejudice to appellant's entitlement to raise the *Apprendi-Blakely-Booker* issue in an appropriate manner should the United State determine the California sentencing structure violates the U.S. Constitution.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

B186836 People (Not for Publication)
v.
Otis

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

B189958 People (Not for Publication)
v.
Eleby

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

September 19, 2006 (Continued)

DIVISION SEVEN (Continued)

B188365 People (Not for Publication)
v.
Gomez

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION EIGHT

B185910 Lopes
v.
De Le Salle Institute and David Brennan

Petition for rehearing denied by operation of law (Rule 25 (c), Cal. Rules of Court).